

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

ROGER LANE
TX-1334329-R

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DOCKETED COMPLAINT NO.
13-127

AGREED FINAL ORDER

On the 16 day of Aug, 2013, the Texas Appraiser Licensing and Certification Board, (the "Board"), considered the matter of the certification of Roger Lane (the "Respondent").

In order to conclude this matter, Roger Lane neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order.

FINDINGS OF FACT

1. Respondent is a Texas state certified residential real estate appraiser who holds certification number TX-1334329-R, and was certified by the Board during all times material to the above-noted complaint.
2. Respondent appraised real property located at 202 North Washington Blvd., Port O'Connor, Texas 77982 (the "property") on or about September 20th and November 13th, 2012, 2012.
3. Thereafter a complaint was filed with the Board by Debra Nikodym. The complaint alleges that the Respondent produced an appraisal report for the property that did not conform to the Uniform Standards of Professional Appraisal Practice (USPAP), TEX. OCC. CODE CHPT. 1103 (the "Act") and 22 TEX. ADMIN. CODE CHPT. 153 and 155 (the "Rules").
4. Thereafter the Board notified Respondent of the nature of the accusations involved for the complaint and Respondent was afforded the opportunity to respond to the accusations in the complaint. Respondent was also requested to provide certain documentation to the Board, which was received.
5. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(6) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:
 - a) USPAP Record Keeping Rule -- Respondent violated the Record Keeping Rule because he failed to maintain a work file containing all data, information and

documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;

- b) USPAP Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to satisfy the Scope of Work Rule and related USPAP provisions because his scope of work did not facilitate the development of credible assignment results. Respondent failed to support his work with the relevant evidence and logic required to obtain credible assignment results;
- c) USPAP Standards 1-2(f) or (g); 2-1(c) & 2-2(b)(x) – Respondent failed to disclose extraordinary assumptions that affected his analysis, opinions and conclusions;
- d) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the improvements description adequately;
- e) USPAP Standards 1-2(e)(iv) & 2-2(b)(viii) – Respondent failed to consider and report easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances or other terms related to the property;
- f) USPAP Standards 1-3(a) & 2-2(b)(viii) – Respondent misrepresented factors affecting marketability specific to the property's lengthy exposure time (approximately 295 days);
- g) USPAP Standards 1-1(b)(i) & 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide support for his determination of the site value and cost new of improvements in his work file and did not summarize his supporting rationale for his determinations. Respondent failed to employ recognized methods and techniques;
- h) USPAP Standards 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide support for his determination of the cost new of improvements in his work file and did not summarize his supporting rationale for his determinations. Respondent also did not properly collect, verify, analyze and reconcile this data, and did not employ recognized methods and techniques;
- i) USPAP Standards 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to collect, verify, analyze and reconcile accrued depreciations and did not provide documentation in his work file to support his analyses, opinions and conclusion, nor did he provide a summary of his supporting rationale, which explained the reasoning behind those opinions and conclusions;
- j) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-6(a) & (b) & 2-2(b)(viii) – Respondent failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Respondent also failed to make appropriate adjustments or made inappropriate adjustments to the sales he used, and did not discuss his analysis and reasoning behind the adjustments he made or

elected not to make. Respondent also did not report, analyze and discuss his reasoning for his conclusions made in the sales comparison approach;

- k) USPAP Standard 2-2(b)(viii); Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to explain and support his exclusion of the income approach when roughly 50% of the market area contained residential rental properties. An income approach should have been performed, but was not;
 - l) USPAP Standards 1-5(a) & 2-2(b)(viii); Scope of Work Rule; 1-2(h) & 2-2(b)(vii) – Respondent failed to analyze and report the listing history of the property current as of the effective date of his reports; and,
 - m) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained misrepresentations and several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible or reliable.
6. Respondent omitted material facts and made material misrepresentations in his appraisal of the property as described in more detail above.
7. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by making material misrepresentations omitting material facts.
4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that:

1. **EDUCATION.** On or before December 16th, 2013. Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on

the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. **Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.**

- A. A minimum fifteen (15) classroom-hour course in USPAP;
 - B. A minimum (7) classroom-hour course in the sales comparison approach; and,
 - i. No examination shall be required for this course;
2. **MENTORSHIP.** On or before November 16, 2013, Respondent shall complete eight (8) hours of in-person mentorship based on the below-noted schedule, conducted by a certified USPAP instructor approved by the Board. Respondent shall submit a certification of completion signed by the approved certified USPAP instructor on or before the due date listed for each mentorship requirement. Respondent shall also submit a signed copy of the Guidelines for Texas Appraiser Licensing and Certification Board Mentors and Mentees form on or before the due date listed for the mentorship requirement. **Respondent is solely responsible for locating and scheduling an approved mentor to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion.**
- a. 4 hours of mentorship in the sales comparison approach;
 - b. 2 hours of mentorship in the income approach; and,
 - c. 2 hours of mentorship in the cost approach.
3. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
4. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

IF RESPONDENT FAILS TO TIMELY COMPLY WITH ANY TERMS IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE, RESPONDENT SHALL BE ASSESSED A \$1,000 ADMINISTRATIVE PENALTY AND RESPONDENT'S LICENSE, CERTIFICATION, AUTHORIZATION OR REGISTRATION SHALL BE SUSPENDED, UNTIL RESPONDENT IS IN FULL COMPLIANCE WITH THE TERMS OF THIS ORDER AND THE \$1,000 ADMINISTRATIVE PENALTY HAS BEEN RECEIVED BY THE BOARD.

ANY SUCH SUSPENSION AND ADMINISTRATIVE PENALTY SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE

ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER.

Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

Respondent is solely responsible for timely delivery to the Board of all documents and payments necessary for compliance of this Agreed Final Order. Payment of any administrative penalties due must be in the form of a cashier's check or money order made payable to the Texas Appraiser Licensing and Certification Board. Respondent shall retain documentation (reply email, fax confirmation, return receipt, etc.) confirming receipt by the Board of all the necessary documents.

Respondent shall send all documents and payments necessary for compliance by: (1) email to compliance.talcb@talcb.texas.gov, (2) fax to (512) 936-3966, attn: Compliance, or (3) certified mail return receipt requested to Standards & Enforcement Services, Texas Appraiser Licensing & Certification Board, Stephen F. Austin Building, 1700 N. Congress Ave., Suite 400, Austin, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING AND TO BE REPRESENTED BY AN ATTORNEY OF MY OWN CHOOSING, AND HEREBY WAIVE BOTH AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A PENALTY, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

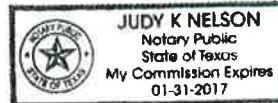
Signed this 7th day of August, 2013.

Roger Lane
ROGER LANE

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 7th day of August, 2013, by ROGER LANE, to certify which, witness my hand and official seal.

Judy K. Nelson
Notary Public Signature

Judy K. Nelson
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 8th day of August, 2013.

Troy Beaulieu
Troy Beaulieu
TALCB Staff Attorney

Signed by the Commissioner this 16 day of Aug, 2013.

Douglas E. Oldmixon
Douglas E. Oldmixon, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16 day of Aug, 2013.

Walker Beard
Walker Beard, Chairperson
Texas Appraiser Licensing and Certification Board